IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 3868 of 2006

Date of Decision: 16.10.2006

Harbhajan Singh & Anr. ...Petitioners

Vs.

Jagmohan Singh & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.K.S.Boparai, Advocate,
for the petitioners.

Mr.G.S.Kaura, Advocate,
for the respondents.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against the order passed by the learned courts below for restraining the petitioners from alienating and changing the nature of the land which is in possession of the plaintiffs as per compromise dated 12.12.1999.

The contention of the learned counsel for the petitioners is that the respondent-plaintiffs in their application moved under Order 39

Rules 1 and 2 of the Code of Civil Procedure had prayed as under:

> " It is, therefore, prayed that an ad-interim injunction restraining the defendants from alienating or encumbering in any other manner specific khasra numbers and from changing in any manner the nature of land measuring 74K- 10 M comprised in khewat Nos. 58, 335, 336, Khatauni Nos. 56, 338, 339 and killa Nos. 5//16/1, 25/1, 36//18, 19, 22, 23/1, 43//2/11, 4//20, 21/1, 22/1, 8//22/3, 13//1/4, 2, 7/3, 8/1, 9/1, 10/1, situated in village Tibba, Tehsil and District Ludhiana as entered in Jamabandi for the year 2002-03, without getting it formally partitioned now or in future, may kindly be granted in favour of the applicants/ plaintiffs and against the respondents/ defendants till the decision of the suit."

Learned counsel for the petitioners states that in reply to the said application they have taken a positive stand that they are not going to alienate any specific Khasra number or change the nature of the land. In spite of the said reply the orders have been passed which go beyond the relief claimed and otherwise contrary to law.

A co-sharer cannot be stopped from alienating his share in the property though he is not entitled to dispose of any specific khasra

number.

In view of what has been stated above, the revision petition is allowed. Impugned orders are set aside and it is made clear that the petitioners would be at liberty, if so advised, to alienate their share in the property but not any specific khasra number. They however, shall not change the nature of land. However, this arrangement shall be subject to final outcome of the partition proceedings.

(Vinod K.Sharma)
Judge

16.10.2006
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